



Public Notice

U.S. Army Corps Of Engineers Galveston District	Permit Application No: _____	SWG-2007-26 (Rev.)
	Date Issued: _____	8 June 2007
	Comments Due: _____	9 July 2007

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

PURPOSE OF PUBLIC NOTICE: To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. We hope you will participate in this process.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

This application will be reviewed pursuant to Section 404 of the Clean Water Act.

APPLICANT: Sunset Development, Inc.
P.O. Box 798
Friendswood, Texas 77549-0798

AGENT: Berg♦Oliver Associates, Inc.
111 Congress Avenue, 4th Floor
Austin, Texas 78701-4143
Telephone: 512-961-2501
POC: Kimberly McBride Beasley

LOCATION: The project is located in wetlands adjacent to Seabrook Slough, on a 3.6-acre tract southwest of the Todville Road and Hammer Street intersection, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: League City, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 304814; Northing: 3272203.

PROJECT HISTORY: The proposed project was announced in a public notice which had a comment period that expired on 22 March 2007. Based on comments received from the public notice, the applicant chose to modify the site development plan to avoid impacts to a portion of the jurisdictional waters of the U.S. on the project site. The proposed mitigation plan and site development plan also changed due to comments from the original public notice.

MODIFIED PROJECT DESCRIPTION: The applicant proposes to discharge 702.61 cubic yards of fill material into 0.874 acres of waters of the U.S. to construct a single-family residential development. The 0.874 acre of impact to jurisdictional waters of the U.S. is comprised of 0.83 acre of emergent wetlands, 0.03 acre of a headwater, and 0.014 acre of intertidal open waters.

The applicant proposes to compensate for impacts to 0.874 acre of waters of the U.S. by creating 0.01 acre of intertidal open waters onsite and purchase 0.86 acre credits at the Greens Bayou Wetland Mitigation Bank. The proposed onsite mitigation area, 0.01 acre of intertidal open water creation, would be excavated to the same elevation as the adjacent intertidal open water and planted with desirable hydrophytic vegetation, which would also assist in onsite water quality functions.

NOTES: This public notice is being issued based on information furnished by the applicant. This information has not been verified. The applicant's plans are enclosed in 4 sheets.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS: Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas Coastal Management Program goals and policies and will be conducted in a manner consistent with said program.

This project incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those which result in a direct impact of three acres or less of waters of the state or 1500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices and other provisions designed to safeguard water quality. The U.S. Army Corps of Engineers (Corps) has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

NATIONAL REGISTER OF HISTORIC PLACES: The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

The proposed work and/or structures are of such limited nature and scope that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or Federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

PUBLIC INTEREST REVIEW FACTORS: This application will be reviewed in accordance with 33 CFR 320-330, the Regulatory Programs of the Corps, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

SOLICITATION OF COMMENTS: The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

PUBLIC HEARING: Prior to the close of the comment period any person may make a written request for a public hearing setting forth the particular reasons for the request. The District Engineer will determine whether the issues are substantial and should be considered in the permit decision. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

CLOSE OF COMMENT PERIOD: All comments pertaining to this Public Notice must reach this office on or before **9 July 2007**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should be submitted to:

David Hoth
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766- 3022 Phone
409-766-6301 Fax

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